THE PLANNING ACT

THE NEW PLANNING ACT

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The New Planning Act

Legislative Changes

Local Planning Policy Branch
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INTRODUCTION

The purpose of this index is to indicate the **changes** from the old Planning Act to the **new** Act. No reference is made if a provision has been simply carried over to the new Act **without** change.

The index should be of special value to municipal planners, clerks, politicians and others in becoming familiar with the new provisions of the Act and should assist them in carrying out their planning responsibilities.

Some of the notes are generalized and for a precise indication of the actual change, the Act itself should be referred to.

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DEFINITIONS

Section	Subject	Comments
Definitions		
1(d) and (g)	Local municipality and municipality	Revised • counties, regions and local municipalities are defined in the Act so the planning functions of each may be described.
1(h)	Official plan	Revised • the purpose of an official plan is to provide objectives and policies to guide the physical development of a municipality, while having regard to relevant social, economic and environmental matters.

PART I: PROVINCIAL ADMINISTRATION

Section	Subject	Comments
Matters to be Considered By the Minister		
2	Provincial interests	New • a list of provincial planning interests is set out. This identifies the framework for provincial involvement when the Minister is carrying out his responsibilities under the *Planning Act*.
Policy Statements		
3	Policy statements, notice, approval and effect	New • in addition, the Minister, independently or jointly with other Ministers, may issue policy statements. • statements will be circulated for comment prior to approval by Cabinet. • statements will be published in the Ontario Gazette and public notice will be given. • municipalities must keep them on record for public inspection. • any municipality or other agency exercising planning authority must take them into account.
Delegation of Minister's Powers		
4	General delegation policy	Revised Policy • the policy on delegation has been widened to include more municipalities, especially counties. (see Guideline #2)
4(1)	Delegation of Minister's authority	New • the authority to approve its own official plan or amendments cannot be delegated to a municipality.
4(2)	Delegation to planning boards	Revised • the Minister may delegate any of his powers to a joint planning board in northern Ontario, not just consents as is now the case.
4(4)	Withdrawal of delegation	Revised • once delegation takes place the Minister may only withdraw the power with a written explanation.
Further Delegation of Powers		
5(2)	Consent authority in northern Ontario	New • when the Minister delegates his consent authority to a municipality in northern Ontario, the municipality may further delegate to a committee of adjustment.

Section	Subject	Comments
Provincial Consultation on Public Works		
6	Consultation	New • every ministry or agency of the Ontario Government (including Ontario Hydro) must consult with and take into account the planning policies of municipalities.
Grants		
7	Grants for planning	New • the Minister may make grants for planning purposes.

PART II: LOCAL PLANNING ADMINISTRATION

Section	Subject	Comments
Planning Advisory Committee		
8(1)	Advisory committee	New • a municipality may set up a planning advisory committee
8(2)	Joint Advisory committee	New • two or more municipalities may set up a joint planning advisory committee to undertake such planning matters as are agreed.
Joint Planning in Northern Ontario		
9	Joint planning boards	Revised • the Minister may establish joint planning boards but only in northern Ontario (i.e. non-county or regional areas). • members are appointed by each municipality and hold office for the term of the council that appointed them. • membership is at the discretion of the municipality concerned.
Duties of Planning Board		
14	Duties of a joint planning board in northern Ontario	Revised • the board provides planning advice and assistance as requested. • the board shall prepare a joint official plan or a plan for any individual municipality at the request of a council of a municipality which is assigned the authority to prepare an official plan in the first instance (see subsection 17(1)). • two thirds vote of council to overturn planning board's recommendation no longer applies.
Additional Functions of Upper-Tier Municipalities		
15	Upper-tier municipalities	New • counties or regions, upon request of a local municipality, may provide planning advice and assistance or assume a local planning function.

PART III: OFFICIAL PLANS

Section	Subject	Comments
Content of Official Plan		
16	Official plan	New • in addition to the definition in clause 1(h) official plans may contain the items listed in this section.
Procedures for Preparation, Adoption, Approval of Official Plans		
17(1)	Preparation of an official plan	Revised • the authority to prepare an official plan is assigned directly to the elected council of municipalities (including counties and regions) rather than an appointed planning board.
17(2)	Information and public meeting	New • council must ensure adequate information is made available. • before adopting a plan notice must be given that a meeting will be held to consider the plan. • notice must be according to regulations issued by Cabinet.
17(3)	Open meeting	New • the meeting to consider the plan must be held not sooner than 30 days after the notice. • it must be open to the public and provide an opportunity to be heard.
17(4)	Alternative procedure	New • as an alternative to subsections 17(2) and (3) a municipality may adopt the plan according to the provisions for public involvement set out in its official plan.
17(5)	Agency comments	New • councils must provide adequate information to agencies and afford an opportunity to submit comments.
17(6)	Municipal adoption	Revised • council may adopt the plan by by-law only after meeting the requirements of subsections 17(2) (3) (4) and (5).
17(7)	Municipal record	New • a record must be compiled and forwarded to the Minister.
17(8)	Clerk's notice of adoption	New • within 15 days of council adoption of the plan the clerk must give notice to the Minister and all persons or bodies that filed a written request to be notified.
17(9)	Approval, refusal	Revised • the Minister may now also refuse to approve the plan.
17(11)	Referral to OMB	Revised • if a person or body asks for referral, the Minister must refer the plan unless the request is not in good faith, or is frivolous or vexatious or is only for delay.

Section	Subject	Comments
17(12)	Reasons	New • a person requesting referral of a plan to the OMB must give written reasons.
17(13)	Explanation for refusal	New • when the Minister refuses to refer a plan, written reasons must be given.
17(14)	Parties	New • parties to the referral are the appellant, the municipality and any person or body added by the OMB.
17(15)	Adding parties	New • the OMB may add parties to the referral, a provision that previously was only in the *Ontario Municipal Board Act*.
17(16)	Representatives	New • the OMB may permit non-parties to make representations at the hearing.
17(17)	Notice and OMB hearing	New • the OMB holds a hearing with notice given to the parties and to such other persons or bodies as the Board considers appropriate. • previously covered by general provisions in the *OMB Act*.
17(18)	OMB decision	New • the OMB may make any decision the Minister could have made. • previously covered by the *OMB Act*.
17(19)	Provincial interests	New • the Minister may at least 30 days in advance of a hearing, identify the plan or parts of the plan before the OMB as adversely affecting provincial interests. (See subsection 34 (28) for parallel provision in the zoning process.)
17(20)	OMB decision on provincial interest matter	New • on a matter identified as of provincial interest, the OMB holds a hearing and makes a decision. • the OMB decision is not final unless it is confirmed by the Cabinet.
17(21)	Power of Cabinet	New • Cabinet may confirm, vary or rescind the OMB decision, and in doing so may direct the Minister to modify the parts of the plan identified as of provincial interest.
Preparation of Plan by Planning Board		
18(1)	Plan prepared by a joint planning board in northern Ontario	Revised • the plan is recommended to each council by a majority vote of the board. • the term and duties of a "designated municipality" no longer apply.

Section	Subject	Comments
18(2)	Submission to councils	Revised • the board submits a joint plan to each council of the joint planning area or, in the case of a plan prepared for a single municipality, only to that council
18(3)	Adoption of plan	Revised • each council in the joint planning area must give notice and adopt the plan according to section 17 and provide a copy of the adopting by-law to the secretary-treasurer of the joint planning board.
18(4)	Submission to the Minister	Revised • the secretary-treasurer submits the joint plan to the Minister when it has been adopted by at least a majority of the councils concerned.
18(5)	Unorganized portions	Revised • for the unorganized portions, the joint planning board acts as the council and the secretary-treasurer acts as the clerk, for the purpose of adopting the plan under section 17.
Preparation of Plan in Unorganized Territory		
19	Planning board, solely unorganized	New • before adopting a plan for a planning area solely of unorganized territory, the planning board must provide adequate information to the public by holding public meetings or by such other measures as set out in the official plan. • the planning board must provide adequate information to agencies. • the planning board acts as council and the secretary-treasurer acts as the clerk for the purpose of adopting the plan under section 17.
Lodging of Plan		
20	Lodging of approved official plans	Revised • official plans are lodged in the office of the Minister and the office of each municipal clerk. • the requirement for lodging an official plan in the land registry office has been deleted.
Amendments or Repeal of Plan and Waiving of Approval		
21(1)	Council in a joint planning board may amend	New • as in the old Act, the official plan provisions apply to amendments, but, any municipality in a joint planning board may amend or repeal a plan that applies to the municipality.

Section	Subject	Comments
21(2)	Waiving approval	New • the Minister may waive approval of an OP amendment; the amendment is thereby deemed to be approved.

Referral to OMB where Amendment Requested

22	Amendment requested by a person	Revised • if the matter is referred to the OMB it may be declared as adversely affecting provincial interests; therefore the OMB decision must be confirmed by Cabinet (these provisions are the same as subsections 17(19) to (21)). • the OMB may now make the amendment itself, in addition to the alternates of rejecting the request or directing the council to make the amendment.

Request by Minister to Amend Official Plan

23(1)	Request by Minister	New • the Minister, on the basis of a policy statement issued under section 3, may request a municipality to amend its existing official plan. • if the municipality fails to act, the Minister may make the amendment.
23(2)	OMB hearing	New • the Minister, any person or municipality may request an OMB hearing on the matter.
23(3)	Refusal to refer	New • the Minister may refuse the OMB hearing only if it is not made in good faith or is frivolous or vexatious or for delay (similar to subsection 17(11)).
23(4)	Notice	New • notice of hearing is given as directed by the OMB.
23(5)	Decision	New • the OMB decides the matter but it is not final until confirmed by Cabinet.
23(6)	Power of Cabinet	New • the Cabinet may confirm, vary or rescind the decision and direct the Minister to make an appropriate amendment.

Public Works and By-Laws to Conform with Plan

24(4)	Zoning by-law conforms	Revised • this subsection sets out the circumstances when a zoning by-law is deemed to conform with the OP.

Section	Subject	Comments
Need for Revision of Plan		
26(1)	Revision of plan	New • each municipal council that has an official plan must hold a special meeting at least every five years to consider the need for a revision of the plan.
26(2)	Notice of meeting	New • notice of the special meeting is given by newspaper and council shall provide any person an opportunity to be heard.
26(3)	Direction by Minister	New • the Minister may direct a municipality to undertake a revision to its official plan.
Conformity with Upper-Tier Plans		
27(1)	Amend to conform	New • currently the 13 regional acts require that local official plans and zoning by-laws be brought into conformity with upper-tier plans. • this provision is now placed in the *Planning Act* and extended to include counties.
27(2)	Amendment by upper-tiers	New • if local official plans and zoning by-laws are not amended within one year the county or region may do it for them.
27(3)	Deemed to be by-law of lower-tier	New • where an upper-tier passes an amending by-law because the local municipality has failed to do so, the amending by-law is deemed to be a local by-law.
27(4)	Conflict between plans	New • where upper-tier and lower-tier plans conflict, the upper-tier plan prevails.

PART IV: COMMUNITY IMPROVEMENT

Section	Subject	Comments
General Provisions		
28(1)(a)	Community improvement definition	Revised • formerly known as "redevelopment" this section has been re-named to reflect its use.
28(1)(b)	Community improvement plan definition	Revised • formerly called "redevelopment plan".
28(1)(c)	Community improvement project area definition	Revised • formerly called "redevelopment area".
28(2)	Designation of community improvement project area	Revised • as a prerequisite to designating an area for community improvement, municipalities will now be required to include provisions related to community improvement within their official plans.
28(4)	Preparation of community improvement plan	New • formal procedures are now established for the preparation and adoption of a community improvement plan. • the procedures for official plans set out in subsections 17(2) to (21) apply, but the plan does *not* form part of the official plan. • public notification procedures of subsections 17(2) and (3) apply, unless these procedures are set out in the municipal official plan in which case they apply to the community improvement plan.
28(1)-(4)	Minister's approval	Revised • previously, numerous ministerial approvals were required. • now, approval by the Minister is required only for the community improvement plan (subsection 28(4)) and the community improvement provisions in the official plan (subsection 28(2)).
28(5)	Deemed community improvement plan	New • the provisions relating to community improvement in the official plan may be deemed by the Minister to suffice as a community improvement plan.
28(12)	Community improvement project area dissolved	New • upon completion of the community improvement plan, councils may dissolve the area by by-law.
Agreements on Studies and Development		
29(1)	Agreements on studies	Revised • the scope has been broadened to the development or improvement of the municipality.
29(2)	Approval not required	New • agreements between municipalities do not require the approval of the Minister.

Section	Subject	Comments
Agreements for Grants on Community Improvement		
30	Agreements	Revised • section now refers to "community improvement" rather than "redevelopment".
Property Standards By-Laws		
31(11)	Membership eligibility	Revised • previously restricted to ratepayers of the municipality, the legislation now permits councils to appoint any person to a property standards committee.
31(23)	Emergency order	New • this new provision enables a property standards officer to require remedial repairs or other work immediately where there is a danger to the health or safety of any person.
31(24)	Emergency powers	New • operating under an emergency order this provision empowers the property standards officer to take whatever steps are necessary to terminate the danger. • additionally, the municipality is given the right-of-entry upon the property.
31(25)	Compensation	New • actions under subsection 31(24) are not liable for compensation.
31(26)	Service of order or statement	New • where actions have been taken to terminate a danger, the order under subsection 31(23) must be sent to the property owner along with a statement of repairs and costs that have been carried out by the municipality.
31(27)	Service of statement	New • where the order has been served, before actions have been taken to terminate a danger, a statement of repairs and costs must be sent to the property owner in accordance with the provisions in subsections 31(7) (8) and (9).
31(28)	Application to county judge	New • application must be made to a judge of a county or district court for a court order confirming the order issued under subsection 31(24). • procedures for this matter are listed in the subsection.
31(29)	Disposition by judge	New • this subsection establishes the disposition of the application by the court as final and binding.
31(30)	Recovery of expenses	New • this subsection enables municipalities to recover expenses required to terminate a danger subject to existing provisions of the *Municipal Act*.

PART V: LAND USE CONTROLS AND RELATED ADMINISTRATION

Section	Subject	Comments
Zoning By-Laws		
34(1)	Zoning by-laws	Revised • the term "restricted area by-law" has been replaced with "zoning by-law".
34(1)2	Location of buildings	Revised • zoning by-laws may be passed restricting the locating of buildings or structures, in addition to the erecting or use.
34(1)3	Marshy lands, cost of public services	Revised • zoning by-laws may now prohibit the erection of buildings or structures on steep slopes. • the reference to cost of public services has been removed.
34(1)4	Cost of construction, external design	Deleted • zoning by-laws may no longer deal with the cost of construction or the external design of buildings.
34(1)5	Regulating doors, windows and other openings	New • zoning by-laws may regulate the minimum elevation of doors, windows and other openings of buildings. • this power will enable municipalities to incorporate flood-proofing measures into their zoning by-laws.
34(2)	Pits and quarries	New • pits and quarries are now deemed to be a use of land for the purpose of zoning.
34(4)	Trailers, mobile homes	New • this subsection enables trailers and mobile homes to be deemed a building or structure, thereby enabling the zoning provisions to apply.
34(9)(b)	Excepted land and buildings	Revised • previously, where plans of a building or structure had been approved by the municipal architect or building inspector, prior to the passing of a by-law, they were exempt from the provisions of the by-law. • the new Act now requires the issuance of a building permit in order to qualify for an exemption. • the old subsection also required that construction of these buildings be commenced within 2 years, however, the new Act references the *Building Code Act* which allows for the chief building official to revoke the permit where construction has not commenced within 6 months or construction has been suspended for more than one year.
34(12)	Information and public meeting	New • before passing a by-law, municipalities must provide adequate information to the public and hold a public meeting as prescribed.
34(13)	Public meeting	New • the municipal meeting held in respect of the passing of

Section	Subject	Comments
		a zoning by-law must be open to the public and provide an opportunity to make representation. • the meeting shall be held not sooner than 30 days.
34(14)	Alternative procedure	New • if a municipality has policies in its official plan regarding public notification procedures for zoning by-laws, they apply rather than subsections 34(12) and (13).
34(15)	Agency comments	New • agencies that council considers may have an interest in the by-law shall be provided with adequate information to review the matter and submit comments.
34(16)	Further notice	New • if a change is made in the proposed by-law after the meeting, council has the discretion whether or not to give further notice of the change. • councils should exercise caution when using this provision since section 60 also requires a "fair hearing" to be provided.
34(17)	Clerk's notice of passing of by-law	Revised • notice that a by-law has been passed must be given within 15 days to all persons or agencies who requested to be notified.
34(18)	Appeal to OMB	New • the appeal period is now 35 days from municipal passing as opposed to the previous 21 day appeal period from the giving of notice, as was contained in the OMB rules.
34(19)	By-law deemed to have come into force	Revised • this provision is similar to subsection 39(26) of the old Act. However, all by-laws come into effect on the day of passing when no appeal is filed, with the noted exceptions.
34(20)	Affidavit re. no appeal	Revised • this subsection requires the clerk to prepare an affidavit or declaration regarding notice rather than a certificate as required in the old Act.
34(21)	Forwarding of record	New • although previously required by the OMB, this provision has been formalized in the legislation. • the matters that constitute the record are listed in the legislation.
34(22)	Parties to appeal	New • the parties to an appeal are the appellant, the municipality and any person or agency added by the OMB.
34(23)	Adding of parties	New • the OMB may include additional persons or agencies, including the Minister, as party to an appeal upon application.

Section	Subject	Comments
		• previously, this was only in the *OMB Act*.
34(24)	Representations by persons not party	New • the OMB may permit a person to make representations at a hearing even though the person is not a party.
34(25)	Hearing	New • previously only in the *OMB Act*, this subsection requires the OMB to hear a matter.
34(26)	Dismissal of appeal without hearing	Revised • the OMB may dismiss an appeal without holding a full hearing but shall afford the appellant an opportunity to make representation as to the merits of the appeal.
34(27)	Powers of OMB	Revised • the Board may dismiss the appeal, allow the appeal in whole or in part, repeal in whole or part or amend the by-law. • these actions may be done directly by the Board without further reference to the municipality. Alternatively, the Board may by order direct the council to repeal or amend all or part of the by-law.
34(28)	Provincial interest	New • this subsection empowers the Minister to designate a by-law appealed to the Board as being of provincial interest. (See subsection 17(19) for parallel provision in the official plan process.) • the Minister must do this no later than 30 days before the Board hearing.
34(29)	OMB procedure on provincial interest matter	New • on a matter identified in subsection 34(28), the OMB makes a decision but does not make an order on the matter.
34(30)	Power of Cabinet	New • after considering the OMB decision, the Cabinet may confirm, vary or rescind the decision or amend the by-law. • the Cabinet has the same approval powers as the OMB in subsection 34(27).
34(31)	When by-law deemed to come into force	New • a by-law does not come into force until all appeals have been finally disposed of and then the by-law is deemed to come into force on the day it was passed by municipal council in accordance with the direction of the Municipal Board or as repealed or amended.
Holding Provisions		
35(1)	Zoning with symbol "H"	New • this section empowers municipalities to incorporate holding provisions into a zoning by-law to designate future uses which can be effective when conditions are met.

Section	Subject	Comments
		• the notice, hearing and appeal provisions of section 34 apply.
35(2)	Condition for use	New • a municipality must have specific official plan policies setting out the objectives for use of holding controls before it can pass a holding by-law.
35(3)	Appeal procedures	New • appeal procedures apply where a municipality refuses or neglects to remove a holding designation upon application.
35(4)	Removal of holding by-law	New • provisions of subsections 34(11) to (26) regarding notice and appeal procedures do not apply to the removal of the holding zone. • however, notice that the municipality intends to remove the holding by-law must be given according to regulations.
Bonus Provisions		
36(1)	Bonus by-laws (zoning)	New • zoning by-laws may be passed for the granting of bonuses in height and density of development, in return for meeting a policy objective in an official plan. • the notice, hearing and appeal provisions of section 34 apply.
36(2)	Requirement for use	New • prior to using this power, a municipality must have provisions in the official plan relating to the use of this power.
36(3)(4)	Agreements	New • agreements may be entered into between the municipality and developer dealing with matters related to bonus by-laws and may be registered on title.
Interim Control By-Laws		
37(1)(2)	Interim control by-laws	New • municipalities may place a temporary freeze on land uses for a one year period, extendable for a further one year period, in order to review or revise land use policies.
37(3)	Notice	New • no pre-notification of the intended passing of an interim control by-law is required. • once the by-law has been passed, affected persons must be notified within 30 days.

Section	Subject	Comments
37(4)	Appeal procedures	New • where notice has been given, any person or agency may appeal to the OMB within 60 days from the passing of the by-law.
37(7)	Cessation of interim control by-law	New • once an interim control by-law ceases to be in effect, the lands to which the by-law applied may not be subject to a further interim control by-law for a period of three years.
Temporary Use Provisions		
38	Temporary use by-laws (zoning)	New • municipalities may zone land or buildings for any temporary use, for renewable periods of up to three years. • the notice, hearing and appeal provisions of secton 34 apply.
Cash-in-lieu of Parking Facilities		
39(1)	Agreements	New • municipalities may enter into agreements with owners or occupants of land, for the purpose of exempting such land from the parking requirements of a by-law.
39(2)	Cash payment	New • these agreements may provide for a cash payment to the municipality, as consideration for the granting of the exemption.
39(3)	Special account and use	New • moneys received by the municipality must be paid into a special account and used for future municipal parking purposes.
39(4)	Registration of agreements	New • agreements may be registered on title.
Site Plan Control		
40(1)	Definition of development	Revised • the definition of development has been expanded to include sites for locating trailers and mobile homes.
40(2)	Establishment of site plan control area	Revised • previously, a municipality could designate an area subject to site plan control if it had an official plan. • now the official plan must also show or describe the area as a "proposed site plan control area".

Section	Subject	Comments
40(4)2	Requirement for drawings (elevation and cross-section)	Revised • drawings showing plan, elevation and cross-section views may now be required for all buildings (not just industrial and commercial) except buildings containing less than 25 residential units.
40(5)	Special areas designated in official plan	New • a municipality may designate specific areas in its official plan to require drawings for buildings containing less than 25 residential units.
40(7)(a)1	Widening of highways	Revised • see subsections 40(8) and (9).
40(7)(a)4	Condition to approval	Revised • as a condition to approval, municipalities may now also require the provision of walkway ramps.
40(7)(c)	Provision and maintenance of facilities	New • agreements under this section may include the maintenance, and ensuring the provision, of the facilities, works or matters.
40(8)(a)	Widenings of county, regional highways	New • a county, regional, metropolitan or district municipality may require a highway widening at no expense for a highway under its jurisdiction. • the upper-tier shall be advised of the proposed development and be afforded a reasonable opportunity to make the requirement.
40(8)(b)	Agreement	New • a county, region, metropolitan or district municipality may enter into an agreement dealing with the highway related matters provided for in subsection 40(8)(a).
40(9)	Limitation on power to require highway widenings	New • the requirement to provide a highway widening only applies if the widening is shown or described in the official plan.
Parkland Conveyance		
41(1)	Land for park purposes	Revised • the former section 41 permitted municipalities to require a 5% (cash or land) conveyance for land developed or redeveloped for residential purposes. • this revised provision retains a 5% dedication for all lands, except commercial and industrial development or redevelopment, where the conveyance may not exceed 2%. This is consistent with subsection 50(5)(a).
41(3)	Alternative requirement	Revised • the alternative requirement of one hectare for every 300 dwelling units may now be obtained in subdivisions.

Section	Subject	Comments
41(5)	Use and sale of land	Revised • this subsection no longer requires the Minister's approval for the sale of land received as a parkland dedication, nor is a time limit imposed.
41(6)	Cash payment in lieu of conveyance	Revised • municipalities may now "require" cash in lieu of conveyance as opposed to the old Act where they could only "accept". (See also subsection 50 (8).)
41(6)	Land valuation and arbitration	New • to determine a cash in lieu payment, the value of the land shall be as of the day before issuance of the building permit. • if agreement cannot be reached on the value of the land, the Land Compensation Board will determine the value.
41(8)	Previous conveyance or payment	Revised • section 41 of the old Act was not applicable to residential development or redevelopment of lands where a previous conveyance took place. • the revised subsection allows for a municipality to require an additional conveyance or payment to a maximum of 5%, if the initial conveyance was below this figure.
41(9)	Appeal to OMB	New • the OMB shall make a final determination of matters under subsection 41(8), in the event of a dispute.
Establishment of a Committee of Adjustment		
43(1)	Membership of committee of adjustment	Revised • council may now appoint anyone to a committee of adjustment (the old Act prohibited council members and municipal employees from sitting on a committee of adjustment).
43(3)	Term of office	Revised • committee members who are not members of council shall hold office for the term of council, while council members are appointed annually.
Powers of Committee of Adjustment to Grant Minor Variances		
44(1)	General powers	Revised • committees may now grant minor variances to zoning and interim control by-laws only. These general powers have been reduced from the previous Act. (See subsection 44(3).)

Section	Subject	Comments
44(2)(a)(i)	Enlargement, extension of non-conforming use	Revised • this subsection has been amended to allow more than one change for extension or enlargement as long as the non-conforming use is in accordance with subsection 44(2)(a)(ii).
44(2)(a)(ii)	Non-conforming use	Revised • this subsection has been amended to allow more than one change in the use of a non-conforming use.
44(3)	Additional powers of committee of adjustment	Revised • in addition to the powers under subsection 44(1), committees may grant minor variances to any other by-law that implements a municipal official plan if the council empowers the committee to do so.
44(10)	Notice of decision	Revised • notice of a committee of adjustment decision must be sent out within 10 days. There was no time period specified in the old Act.
44(12)	Appeal	Revised • an appeal of a committee of adjustment decision to the OMB must now state the reasons of the appeal.
44(14)	Appeal period	Revised • the appeal period has been altered to 30 days from the date of decision.
44(15)	Appeal withdrawn	New • where an appeal to the OMB is withdrawn, the decision of the committee of adjustment is final.
44(17)	Dismissal of appeal	New • where the OMB decides that an appeal is insufficient, it may dismiss the appeal without holding a hearing but must notify the appellant and allow representations as to the merit of the appeal.
Mobile Homes		
45(2)	One mobile home per lot	New • this subsection has been amended to exempt permits issued under the *Public Lands Act* by the Minister of Natural Resources. • applies only to land in territory without municipal organization.
Powers of Minister: Zoning, Deeming Plans of Subdivision		
46(13)	Decision of OMB	Revised • same as previous legislation except Board does not make decision on matters in subsection 46(16). (See subsection 46(16).)

Section	Subject	Comments
46(14)	Notification of decision	Revised • copies of decisions must now be sent to any person who requests a copy in writing.
46(15)	Provincial interest	New • this subsection empowers the Minister to identify and inform the Board that a requested revocation or amendment is of provincial interest.
46(16)	Decision on provincial interest	New • where the Board has made a decision the Minister shall not give effect to the decision unless the Cabinet has confirmed the decision.
46(17)	Disposition by Cabinet	New • the Cabinet may confirm, vary or rescind the decision of the OMB on matters under subsection 46(15) and direct the Minister to amend or revoke the order.
(Note:)	Existing official plan	• the requirement that the Minister's order conform to an official plan is deleted.
Where License etc. not to be Issued		
47	Mobile homes and Minister's orders	New • no approval, licence, utility connection, etc, may be granted for any use which would be in contravention of the mobile home provisions (section 45) or a Minister's zoning order (section 46).
Entry and Inspection		
48	Powers detailed	New • this section provides municipalities with a right-of-entry to enforce zoning and interim control by-laws, but provides that a search warrant must be obtained if consent to enter is not given.

PART VI: SUBDIVISION OF LANDS

Section	Subject	Comments
Subdivision Control		
49	General	Revised • this section basically re-enacts section 29 of the old Act by setting out who is responsible for granting consents, the conditions under which land may be conveyed and the procedures for deeming plans of subdivision and applying part lot control.
49(1)(a)to(d)	Authority to grant consents	Revised • the new Act assigns consent granting authority to the councils of regions, counties, cities outside regions and separated towns. (See section 53 on further delegation of this authority.)
49(1)(e)	Consent authority in northern Ontario	Revised • regional municipalities or cities in northern Ontario are responsible for consents. • for all other areas, the Minister grants consents. • where appropriate, the Minister's policy will be to delegate this authority.
49(3)(e)	Special exemption under *Conservation Authorities Act, Ontario Hydro*	New • land acquired for flood control, erosion control, bank stabilization, shoreline management or preservation of environmentally sensitive lands under projects approved by the Ministry of Natural Resources and declared accordingly by a Conservation Authority, is now exempt from subdivision control, as is Ontario Hydro.
49(5)(c),(d) and (e)	Part-lot control exemption	New • in addition to the old Act's provisions exempting certain types of transactions from part-lot control, land acquired for specific conservatory projects, land that remains of a lot or block from which part has been acquired by expropriation and Ontario Hydro, are also exempt.
49(6)	Conveyance of remaining part	New • where a consent has been given to create a new lot from one parcel of land, the remaining part may now be conveyed before the new lot is conveyed, as long as the consent for the new lot has not lapsed and the conditions have been fulfilled.
49(15)	Simultaneous conveyances	Revised • this subsection does not now apply to a simultaneous conveyance or other simultaneous dealings involving the same parties acting in their same respective capacities.
49(26)	Deeming by-law hearing	Revised • a person now has 20 days (not 15) to object to a deeming by-law.

Section	Subject	Comments
Plan of Subdivision		
50(4)(1)	Energy conservation	New • the matters for which regard shall be had when considering a draft plan of subdivision have been expanded to include "the physical layout of the plan having regard to energy conservation".
50(5)(a)	Parkland conveyance	Revised • conveyance of 5% of land for parkland purposes can now only be obtained in subdivisions other than commercial or industrial subdivisions where the maximum has been reduced to 2% (consistent with subsection 41(1)).
50(8)	Cash in lieu of parkland may be required	Revised • municipalities are now enabled to "require" rather than "accept" cash payments in lieu of parkland conveyance (consistent with subsection 41(6)).
50(9)	Determination of amount of cash in lieu of parkland	New • the amount of a cash in lieu of parkland payment shall now be determined as of the day before the day of draft approval. • where the amount cannot be agreed, provision is made for either party to apply to the Land Compensation Board to have the value determined.
50(13-16)	Refusal to give draft approval	New • under the old Act, the Minister did not refuse draft approval, but the applicant was informed that the proposal could not be recommended for draft approval. • the Minister, or his delegate, may now inform the applicant of an intended refusal. The applicant then has 60 days in which to request the plan's referral to the OMB. Written reasons must accompany the request. • if no referral request is made, then draft approval is deemed refused and cannot be appealed.
50(21)	Final plan registration	Revised • the time period allowed to register a subdivision plan after final approval is granted has changed from one month to 30 days.
Prohibited Land Sales		
51(1)	Offence	Revised • it is an offence to offer for sale, agree to sell or sell lots on an unregistered plan, but offers and agreements may be made on the basis of a draft approved plan.

Section	Subject	Comments
Consent to Land Division		
52	General procedures	Revised • while the new consent procedures incorporate parts of the old system, changes described below have been made.
52(3)	Cash in lieu of parkland conveyance	New • as in subdivision plan procedures (see subsection 50(9)), the amount of a cash in lieu of parkland payment shall be determined as of the day before the day of the giving of the consent.
52(4)	Conferring with agencies or persons	Revised • in reviewing a consent application, the approval authority must confer with such agencies or persons as are prescribed by regulation.
52(5)	Written notice of consent decision	New • previously there was no time limit in which a copy of the application decision had to be sent out. • a copy of the written decision must now be sent out, within 10 days of the making of the decision, to: — the applicant — every agency and person conferred with (under subsection 52(4)) who requested, in writing, a copy — any other person who, in writing, requested a copy and — the Minister if he has notified the council to send a copy of all decisions.
52(6)	Written notice on refusals	New • where a consent is refused, written notice of the decision, with reasons, must be sent within 10 days from the making of the decision to: — the applicant — the agencies and persons conferred with under subsection 52(4), other than the Minister.
52(7)	Appeal of consent decision	Revised • the appeal period has been changed to run 30 days from the date of the decision rather than 21 days from the sending of the notice. • an appeal must include written reasons.
52(8)	Appealing conditions	New • where a consent is granted with conditions, the applicant, Minister, agency or any person receiving notice of the decision may appeal any condition(s).
52(10) to (14)	Procedures for Minister, or his delegate	New • in order to be consistent with the subdivision approval process, new provisions set down procedures for the Minister to: — confer with whom is considered appropriate (52(10)) — inform applicant of approval conditions (52(11))

Section	Subject	Comments
		— inform applicant of intention to refuse, giving 60 days to request a referral (52(12)) — upon request, refer application to the OMB unless not in good faith, frivolous, vexatious or for purpose of delay (52(13)) — refer approval conditions to the OMB (52(14)).
52(16)	Dismissing an appeal	Revised • the OMB may dismiss an appeal without holding a full hearing but it must notify the appellant and allow representations to be made.
52(18)	Giving of consent following appeal or referral	New • where the OMB decision is to grant consent, the Minister or approving authority shall give the consent (when the conditions have been fulfilled).
52(19)	Giving of consent	New • where there is no appeal or referral, the Minister or approval authority may give the consent (when the conditions have been fulfilled).
52(20)	Conditions not fulfilled	New • a consent shall be deemed to be refused where conditions have not been fulfilled within one year of being imposed.
52(21)	Certificate issuance	Revised • in addition to the Minister or a municipal clerk acting on behalf of council, provision is made for the secretary-treasurer of a C of A or LDC to give a certificate where the authority is delegated.
52(22)	Lapsing of consent	Revised • whereas under the old Act a consent lapsed 2 years after the granting of consent, it now occurs 2 years from the giving of the certificate.
Delegation of Consent Authority		
53(1)	Consent delegation to constituent municipality	New • regional or county council may delegate the consent authority, with the approval of the Minister, to a local council.
53(2)	Further delegation by constituent municipality	New • a local council that has been delegated consent authority may then delegate, by by-law, the authority or any part of it. • delegation can occur to: — a committee of council or, — an appointed officer or, — a committee of adjustment

Section	Subject	Comments
53(3)	Withdrawal of delegated authority by Minister	New • the Minister may require that consent authority be returned to the regional or county council from a local council. • local council must continue to decide those applications already before it.
53(4)	Further delegation by region or council	New • where a regional or county council retains the consent authority, it may delegate all or any part to: — a committee of council or, — a land division committee or, — an appointed officer
53(5)	Further delegation by city outside region, or separated town	New • a council of a city outside a region or separated town may delegate all or any part of its authority as in subsection 53(4) above (C of A instead of LDC).
53(6)	Committee of adjustment procedures	New • where a council has delegated the authority to a committee of adjustment, it shall use the consent procedures under section 52 and not the minor variance procedures under section 44.
53(7)	Withdrawal of delegated authority by council	Revised • where a council delegates authority (under this section), it may apply conditions. • it may withdraw the authority at any time. • where authority is withdrawn, the delegated authority must decide those applications already before it.
Land Division Committee		
55(1)	Establishment of land division committee	Revised • a county or a region may decide under subsection 53(4) to delegate the consent function to a land division committee composed of such persons as considered advisable.
55(2)	Application of section 43	Revised • the provisions relating to a committee of adjustment apply to a land division committee.

PART VII: GENERAL

Section	Subject	Comments
Fair Hearing		
60	Opportunity to be heard	New • a council must ensure a fair opportunity is given to persons to make representations and that in doing so it is acting legislatively and not judicially.
Ontario Hydro		
61	How the Act applies to Ontario Hydro	New • Ontario Hydro activities in the first instance are exempt from the Act's provisions except for sections 3, 6 and 47. • however land and buildings owned by Ontario Hydro and used for executive, administrative and retail purposes or leased from Ontario Hydro, are subject to the *Planning Act* and any other undertakings, are subject to the *Planning Act* unless approved under the *Environmental Assessment Act*.
No Petition to Cabinet		
63	Petition to Cabinet	Revised • previously the *OMB Act* allowed any planning decision to be petitioned to Cabinet. The only exceptions were consents and minor variances which had been specifically exempted. • now *no* planning decisions may be petitioned to Cabinet.
Effect of Delegate's Approval		
65	Effect of decision	New • to remove any doubt about the validity of planning decisions made by delegated bodies e.g. land division committee, this section makes clear that an approval or consent given by a delegate has the same force and effect as if given by the Minister or municipal council.
Penalty		
66	Penalties for offending *Planning Act*	New • at present, the power to impose fines for contravention of a by-law is in the *Municipal Act*. • this power is now in the *Planning Act* but revised so that fines may be levied on persons or corporations who contravene the following sections: — section 34, zoning (includes sections 35, 36 and 38)

Section	Subject	Comments
		— section 37, interim control — section 40, site plan control — section 45, mobile home provisions — section 46, Minister's zoning orders — section 51, land sales offences • fines for a subsequent offence may be on a daily basis.
Assessment Act Disclosure		
67	Offence and exception	Revised • previously only an employee or member of a planning board could obtain information from the assessment roll. • now an employee of a municipality may obtain the information as long as it is required in the course of his planning duties.
Tariff of Fees		
68	Establishment, waiver, appeal	New • a council may, by by-law, prescribe a tariff of fees to be charged for processing planning applications by it or a committee of adjustment or land division committee. • the fee may be reduced, or waived, if a council, committee of adjustment or land division committee wish. • a person may pay the fee under protest and then appeal to the OMB, within 30 days. The Board decides the matter.
Regulations		
69	Lieutenant Governor's regulations	New • Cabinet may make regulations prescribing: — notification procedures required under subsections 17(2); 28(4); 34(12); 34(17); 35(4), 37(3) and 44(5) — fees for planning boards (in northern Ontario only) — rules of procedure for committees of adjustment, land division committees, district land division committees (under subsections 43(11), 52(2) and section 54). — the agencies or persons to be conferred with under subsection 52(4) and — the information required under subsection 44(11).

Section	Subject	Comments
Transitional Provisions, Official Plans		
71(1)	Official plans remain in effect	Transitional Provision • except for joint official plans, all other plans remain in effect when the new Act comes into force and may be amended or repealed in accordance with the new Act.
71(2)	Repeal of existing joint plans	Transitional Provision • joint official plans are deemed to be repealed 2 years from the date the new Act is effective, unless the affected municipalities do so before. • exceptions are official plans continued by Minister's order and those adopted by a county council or planning board in northern Ontario.
71(3)	Continuation of joint plans	Transitional Provision • within the 2 year period the Minister may, by order, keep in force any joint plan or part of it. • the plan may be allocated to a local municipality or county.
71(4)	Amendment or repeal of joint plans	Transitional Provision • within the 2 years mentioned in subsection 71(2) any affected municipality may ask the Minister to approve an amendment or repeal that part of a joint plan that affects it.
Transitional Provisions, Planning Boards		
72(1)	Dissolution of planning areas and planning boards	Transitional Provision • except in northern Ontario, all planning areas and boards (including joint and subsidiary) are dissolved on the date the new Act is effective.
72(2)	Assets and liabilities of planning boards	Transitional Provision • when dissolved, the assets and liabilities of a planning board that served one municipality are assumed by that municipality. • the assets and liabilities of a joint planning board are assumed by the municipalities that form the joint planning area. • the OMB shall resolve any disputes in the joint planning situation.
72(3)	Continuation of planning areas	Transitional Provision • the following planning areas shall remain in force when the new Act is in effect: — those of two or more municipalities in a territorial district — those of one or more municipalities and territory without municipal organization — those consisting solely of territory without municipal organization.

Section	Subject	Comments
72(4)	Continuation of planning boards	Transitional Provision • all planning boards of planning areas described in subsection 72(3) shall continue unless changed by the Minister.
72(5)	Planning board members	Transitional Provision • membership of planning boards retained under subsection 72(4) shall continue until expiry of the term of the council that appointed them and their successors are appointed.
Chapter 379, R.S.O. 1980 Repealed		
73	Repeal	Transitional Provision • the old *Planning Act* is repealed. • site plan control with be repealed at a different time.
Matters Continued under Old Act		
74(3)	Dates for continuation under old Act	Transitional Provision • any planning matters or proceeding, started to be processed before the new Act is effective, shall continue to be subject to the old Act if on or before the day it becomes effective: — a by-law has been passed for an official plan, amendment or repeal of an official plan; designation of a redevelopment area; a zoning by-law or amendment. — an official plan amendment, subdivision plan or zoning application has been made. — a site plan control application has been made or an application for a consent has been made to a committee of adjustment, land division committee, planning board in a territorial district or the Minister.

La version française de cette publication est disponible à demande.

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